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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,030	12/11/2003	Glade H. Howell	P-3855C1C1C1	8757
26253 7590 01/07/2009 David W. Highet, VP & Chief IP Counsel Becton, Dickinson and Company 1 Becton Drive MC 110 Franklin Lakes, NJ 07417-1880				
EXAMINER VU, QUYNH-NHU HOANG				
ART UNIT 3763		PAPER NUMBER		
MAIL DATE 01/07/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/734,030

Applicant(s)

HOWELL, GLADE H.

Examiner

QUYNH-NHU H. VU

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4, 6-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Art Unit: 3763

DETAILED ACTION

Response to Amendment

Amendment and Request for Continued Examination (RCE) filed on 9/9/08 has been entered.

Claims 1-4, 6-20 are present for examination.

Claim 5 is cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brimhall et al. (US 5,810,780) in view of Crawford et al. (US 5,558,651) and Poli (US 5,396,925).

Brimhall discloses a vascular access device comprising: a needle 40 with an opening; a notch 42, 43; a housing (including 25 and 41); a septum 30; a slit wherein the needle inserted into the septum 30; a tube 50 attached to and in fluid communication with the housing; a female adapter 51 attached to the tube; a catheter 20, a finger grip 25 or 44.

Brimhall does not disclose the limitations that the septum having a length greater than the notch distance; wherein the notch distance defines as the distance between a proximal end of the notch and a distal end of the opening in the distal end of the needle; a biasing element engaged to the septum urging the septum to a closed condition.

Crawford discloses a device comprising: a needle 15 with an opening 15; wherein the needle defines a notch 28 therein adjacent to the distal end 17, and wherein a notch distance defines as the distance between a proximal end of the notch and a distal end of the opening in

Art Unit: 3763

the distal end of the needle; a catheter 13; a septum (including 11 and 30). Fig. 1 of Crawford clearly shows that the septum having a length greater than the notch distance.

As know that, a septum of claimed invention is considered as a valve for sealing blood and preventing the leakage of blood.

Similarly, Poli discloses a flush valve that normally limits a flow of fluid or blood through the valve. The device of Poli in Fig. 7A is similarly to the septum in Fig. 2 of claimed invention. For example: Poli discloses that a biasing element 72 engaged to the septum urging the septum to a closed condition; a slit 36 (Fig. 7B). Poli does not clearly mention that the biasing element 72 formed of C-shaped. However, it would have been an obvious matter of design choice to provide the biasing element with C-shaped, since applicant has not disclosed that C-shaped solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the biasing element of Poli.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Brimhall with a notch, as taught by Crawford, so that the alignment of the septum/pawl with the notch and the blood can be leaked within the septum. Furthermore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Brimhall with a biasing element, as taught by Poli, in order to limit a flow of fluid through the valve.

Response to Arguments

Applicant's arguments with respect to claims 1-4, 6-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh-Nhu H. Vu whose telephone number is 571-272-3228. The examiner can normally be reached on 6:00 am to 3:00 pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763

Quynh-Nhu H. Vu
Examiner
Art Unit 3763